

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DANA DAYE HAMBLIN,

Plaintiff,

v.

SANTA FE COUNTY, SANTA FE
COUNTY ADULT DETENTION
CENTER, DEREK WILLIAMS,
CORIZON HEALTH, INC., CORIZON,
LLC, and JOHN and JANE DOES NOS,
1-10;

Defendants.

No. 1:17-cv-00660-PJK-KBM

**ORDER GRANTING MOTION TO STRIKE
AND GRANTING LEAVE TO AMEND**

THIS MATTER comes before the court on Defendant Santa Fe County's Motion to Strike Plaintiff's First Amended Complaint filed February 12, 2018 (ECF No. 42) and Plaintiff's Motion for Leave to File First Amended Complaint Pursuant to Fed. R. Civ. P. Rule 15 filed February 8, 2018 (ECF No. 39). Upon consideration thereof, the motion to strike is well taken and should be granted because Plaintiff filed an amended complaint on February 5, 2018 (ECF No. 37) without seeking leave to amend or obtain consent as required by Fed. R. Civ. P. 15(a)(2).

Insofar as Plaintiff's motion for leave to amend, Defendant Santa Fe County

argues that the request is untimely under the scheduling order (ECF No. 32), Plaintiff cannot show good cause, and the amended claims are futile. ECF No. 46. Under the circumstances and given the policies behind liberal amendment in the early stages of litigation, the court should grant leave to amend. See Fed. R. Civ. P. 15(a)(2); Calderon v. Kan. Dep't of Soc. & Rehab. Servs., 181 F.3d 1180, 1186 (10th Cir. 1999). Of course, Defendants can raise any applicable defenses thereafter. Plaintiff should file her amended complaint within ten days from the entry of this order.

Plaintiff's attorneys should review the federal rules of civil procedure and local rules before further proceedings.

NOW, THEREFORE, IT IS ORDERED that:

(1) Defendant Santa Fe County's Motion to Strike Plaintiff's First Amended Complaint filed February 12, 2018 (ECF No. 42) is granted; and

(2) Plaintiff's Motion for Leave to File First Amended Complaint Pursuant to Fed. R. Civ. P. Rule 15 filed February 8, 2018 (ECF No. 39) is granted and Plaintiff shall file her amended complaint within ten days from the entry of this order.

DATED this 30th day of March 2018, at Santa Fe, New Mexico.


UNITED STATES CIRCUIT JUDGE
Sitting by Designation

Counsel:

Richard A. Sandoval, Sandoval Firm, Santa Fe, New Mexico, and Parish Collins, Collins & Collins, Albuquerque, New Mexico, for Plaintiff.

James P. Sullivan, Brennan & Sullivan, P.A., Santa Fe, New Mexico, and Christa M. Hazlett and Alisa Wigley-DeLara, Conklin, Woodcock & Wiegler, P.C., Albuquerque,

New Mexico, for Defendants Santa Fe County and Santa Fe County Adult Detention Center.